IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SECOND APPEAL No 31 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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THAKAR & CO.

Versus

THE STATE OF GUJARAT,

Appearance:

1. Second Appeal No. 31 of 1993

MS KJ BRAHMBHATT for appellant

MR KP RAVAL, AGP for Respondent No. 1

MR VASANT S SHAH for Respondent No. 2

MR UI VYAS for Respondent No. 3

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 26/06/2001

ORAL JUDGEMENT

Learned counsel for the appellant, Ms.K.J.Brahmbhatt is not present either in the first

sitting or in the second sitting. Ms.Sneha Joshi prays for adjournment on her behalf.

2. I would have granted time to the learned counsel for the appellant, but on last adjournment also, though time was granted as desired by her, she has not utilised the same and since it is a matter regarding the interest of an individual against the Society at large, time is not required to be granted. Hence, request is rejected.

3. Learned A.G.P. for respondent No.2, Mr.K.P.Raval and learned counsel for the respondent No.3, Mr.U.I.Vyas are present.

4. It is established from the record and proceedings that T.P.Scheme No.1995/40 is the subject matter in question and more particularly final plot No.17-20 is a part and parcel of T.P.Scheme No.1995/40. It appears that draft T.P.Scheme was prepared and sent to the Government for approval on 18-3-1975 and said Scheme was accepted by the Government and notification dated 24-6-1977 to that effect was published in the Government Gazette on 19-9-1986 thereby the said Scheme has become final on that date.

5. It also appears that Regular Civil Suit No.400 of 1986 was filed by the present appellant in the Court of Civil Judge (S.D.), Mehsana admittedly on 29-9-1986 i.e. after the T.P.Scheme has become final. However, said suit was rejected on 8-8-1989 against which, Regular Civil Appeal No.77 of 1989 has been preferred in the Court of Assistant Judge, Mehsana. However, said appeal was dismissed by the lower appellate Court on 24-12-1992. It is against both the concurrent judgments, present Second Appeal has been filed by the original plaintiff in the year 1993.

6. Firstly, Second Appeal has been filed against two concurrent judgments. Secondly, by way of civil suit, appellant has challenged the T.P.Scheme which has become final on 19-9-1986. It is a settled principle of law that once the T.P.Scheme has become final, then it cannot be a matter of judicial review by way of filing civil suit and in short, Civil Court ceases the jurisdiction.

7. Relying upon the settled principle of law, this Second Appeal is rejected. Ad-interim relief, if any, granted earlier stands vacated forthwith. Schedule produced in this matter is ordered to be taken on record.

(R.P.Dholakia,J.)

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